

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

JACOB RAY RIVERA,	:	
Plaintiff	:	CIVIL ACTION NO. 3:13-1399
v.	:	(JUDGE MANNION)
PA DIEBERT, <u>et al.</u>,	:	
Defendant	:	

ORDER

In accordance with the memorandum issued this same day, **IT IS
HEREBY ORDERED THAT:**

- (1)** the report of Judge Schwab, **(Doc. 41)**, is **ADOPTED IN ITS ENTIRETY**;
- (2)** defendant Diebert's motion to dismiss the plaintiff's complaint, **(Doc. 36)**, is **GRANTED** with respect to the plaintiff's Eighth Amendment claims and **DENIED** with respect to the failure to exhaust argument;
- (3)** the Corrections Defendants' motion to dismiss the plaintiff's complaint, **(Doc. 29)**, is **GRANTED**; and

(4) the instant action is **REMANDED** to Judge Schwab for further proceedings.

s/ Malachy E. Mannion
MALACHY E. MANNION
United States District Judge

Date: September 12, 2016

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